



Federal Communications Commission
Washington, D.C. 20554
JUL 24 1996

The Honorable Arlen Specter
United States Senate
530 Hart Senate Office Building
Washington, D.C. 20510-3802

DOCKET FILE COPY ORIGINAL

Dear Senator Specter:

Thank you for the letter dated July 1, 1996, on behalf of several of your constituents, regarding the Commission's policies for licensing 800 MHz Specialized Mobile Radio (SMR) systems. Your constituents express concern regarding the Commission's decision to redesignate the 800 MHz General Category Pool frequencies. Your constituents also express concern about the proposed use of competitive bidding procedures to award future licenses on these frequencies.

On December 15, 1995, the Commission issued a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144, which addressed the treatment of the General Category. In the First Report and Order, the Commission determined that the overwhelming majority of General Category channels are used for SMR as opposed to non-SMR service. In fact, our licensing records indicate that there are three times as many SMR licensees using General Category channels as any other type of Part 90 licensee. The Commission therefore concluded that the most efficient use of the General Category channels would be to redesignate them exclusively for SMR use. Thus, the First Report and Order provided that in the future, only SMR service providers will be eligible for new licenses in the General Category pool. Existing non-SMR licensees on General Category channels will continue to operate under their current authorizations, however, and will be fully protected from interference by new SMR licensees. In addition, the Commission's decision specifies that SMR service providers are no longer eligible to apply for licenses on Business or Industrial/Land Transportation channels. As a result, we anticipate that the First Report and Order will make more spectrum available for licensees who are currently eligible, and will continue to be eligible, to apply in the Business and Industrial/Land Transportation categories. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

The Commission's decision to auction 800 MHz SMR spectrum is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. The Commission has concluded that auctioning of SMR licenses

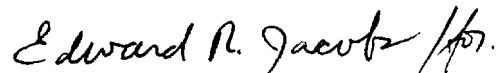
The Honorable Arlen Specter

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satisfies these criteria. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We note that the statute does not distinguish between new services (such as Personal Communications Services) and existing services in terms of whether initial licenses in a given service are auctionable. As noted above, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward R. Jacobs" followed by a stylized flourish or initials.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

United States Senate

WASHINGTON, DC 20510-3802

July 1, 1996

PRB
93-144
3891

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Room 814
Washington, DC 20554

Dear Chairman Hundt:

I am writing on behalf of several of my constituents who have contacted me regarding FCC PR Docket No. 93-144, Redesignation of the 800 MHz General Category Pool to Commercial-only Service and Proposed Implementation of Competitive Bidding Processes.

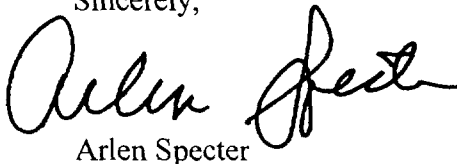
I am advised that the above-mentioned proceeding by the Federal Communications Commission (FCC) resulted in the reallocation of 150 channels in the 800 MHz band that previously had been shared by private and commercial licensees for more than twenty years. It is my understanding that the FCC's justification for this action was that the "overwhelming majority" of channels were used for commercial operations.

According to my constituents, however, there are more than 3,400 non-commercial licensees in this band. Those who have contacted me are small business owners who use their radio system to communicate with their employees in the field, an important tool in the daily operation of their companies. These companies feel that the FCC's actions were "predatory" to the spectrum rights afforded to them.

I would appreciate a written explanation of your regulatory procedures with respect to the above-referenced case. Please forward a copy of your response to the attention of Stephanie Stitzer of my staff.

Thank you for your attention to this matter.

Sincerely,



Arlen Specter

AS/ss